

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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:  
STEPHEN ELLIOTT, :  
:  
Plaintiff, : 18-CV-05680 (LDH) (SJB)  
v. :  
: April 12, 2019  
MOIRA DONEGAN, :  
: Brooklyn, New York  
Defendant. :  
:  
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TRANSCRIPT OF CIVIL CAUSE FOR STATUS CONFERENCE  
BEFORE THE HONORABLE SANKET J. BULSARA  
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

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Proceedings recorded by electronic sound recording,  
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1 (Proceedings began at 1:07 p.m.)

2 THE CLERK: All rise.

3 THE COURT: Please be seated. Good afternoon.

4 UNIDENTIFIED SPEAKER: Good afternoon, Your Honor.

5 THE COURT: Okay. We're here for a status  
6 conference in 18-5680. Can the parties state their names for  
7 the record, please?

8 MR. LEWIS: Nicholas Lewis of Nesenoff & Milternberg  
9 for plaintiff Stephen Elliott. Good afternoon, Your Honor,  
10 and good afternoon, counsel.

11 THE COURT: Good afternoon, Your Honor.

12 MR. MATZ: Your Honor, Joshua Matz of Kaplan Hecker  
13 & Fink for defendant Moira Donegan, and I'm joined by my  
14 colleague from the firm Tom Rawlinson.

15 THE COURT: Good afternoon.

16 MR. MATZ: Thank you, Your Honor.

17 THE COURT: So we're here for both the status  
18 conference and an initial conference. A couple of things, one  
19 is I see and I appreciate that the parties have provided a  
20 stipulation about the Google subpoena. I have a couple of  
21 questions. Is the Google subpoena intended to obtain content  
22 information, i.e., the contents of the actual spreadsheet?

23 MR. LEWIS: No, Your Honor.

24 THE COURT: Okay.

25 MR. LEWIS: Just identifying information.

1           THE COURT: Okay. So it's just what we'll call  
2 attribution information, and is that the defendant's  
3 understanding as well?

4           MR. MATZ: Yes, Your Honor. So our consent to that  
5 of course is linked to the other things that were referenced  
6 in the letter. But, yes, it's attribution information,  
7 basically who authored the specific statements about Mr.  
8 Elliott.

9           THE COURT: Okay. The reason I asked that is  
10 because I think you otherwise run into an ECPA problem, a  
11 Stored Communications Act problem if you seek the contents.  
12 Okay. Then the second question is so the --

13                           [Pause in proceedings.]

14           THE COURT: So the subpoena as drafted, okay, and I  
15 realize that this was drafted in March, has a return date of  
16 April 19th which is contemplating both notification to the  
17 people who are authors or -- in other words, whose information  
18 is being sought, as well as production of that information as  
19 well as any motion to quash or otherwise. And I think that's  
20 a little aggressive actually.

21                   And actually, I think we have to think about a  
22 slightly different process that we have used or at least I  
23 have used in the context of asking whether it's a company like  
24 Google or Yahoo! where they're being asked for either the  
25 owner of an account or information that's being sought in the

1 subpoena, which is -- and I'll give you a sight to another  
2 case where you can look on PACER for the kind of order that I  
3 have issued. And it doesn't need to be on the same time  
4 frames that we're talking about, but it usually operates in  
5 the following fashion.

6           The company like Google, okay, gives a notification  
7 to the account owner or the subscriber that they've received a  
8 subpoena. It gives -- and they are given an opportunity to  
9 then, you know, move to quash to take any other protective  
10 measures that they wish. During that time, they can either  
11 proceed anonymously or not in this court until that motion to  
12 quash is resolved. And until that time, there is no  
13 disclosure to the plaintiff of the information of the identity  
14 of the person.

15           The reason to do that is it is the -- whatever the  
16 privacy protection is but also more importantly I think is for  
17 what can be inaccurate attribution, namely someone owns the  
18 account is logged in as somebody else but it is your -- but  
19 the person who actually did the editing is another person who  
20 utilizes that account. And I think the benefit of doing that  
21 in a case like this, putting aside the privacy interest, is so  
22 that if the plaintiff does not end up suing the wrong person  
23 or persons, namely that they are actually suing someone who's  
24 actually I take it edited the spreadsheet or made the comments  
25 that are the subject of the action.

1           So, you know, I'd like your reactions to this as a  
2 concept, and then I'll give you a citation to a case where  
3 this has been entered. And then we can discuss, you know, how  
4 you'd like to -- you know, you don't have to -- I will say  
5 about this process, I'll leave it -- if you agree to work out  
6 the dates and timing of this so that, you know, it's not  
7 extended forever because obviously the case should move  
8 forward.

9           So I'll hear from plaintiff's counsel.

10          MR. LEWIS: I certainly am open to the Court's  
11 suggestion. If I might just know if the person who comes  
12 forward says it was not them, is there a practice or a  
13 procedure that's followed to buy what they can say or someone  
14 else can say was me?

15          THE COURT: Well, I think we have to then cross that  
16 bridge --

17          MR. LEWIS: Okay.

18          THE COURT: -- as it were.

19          MR. LEWIS: Okay.

20          THE COURT: And certainly, we have to, you know,  
21 obviously enable the plaintiff to figure out who it is.

22          MR. LEWIS: Okay.

23          THE COURT: You know, I think it really would be --  
24 I'm certainly open to suggestions and we have to figure out  
25 how to proceed. Usually --

1 MR. LEWIS: Okay.

2 THE COURT: -- it may require some additional  
3 discovery of some kind. It also depends on what frankly --  
4 the reason I'm a little bit hesitant to answer definitively,  
5 it also depends on what Google comes forward with to say that  
6 they have --

7 MR. LEWIS: Sure. Okay.

8 THE COURT: -- right, because, you know, you -- to  
9 open a Google account, you're supposed to give certain  
10 information and let's see what else they have.

11 MR. LEWIS: Sure.

12 THE COURT: If it's a multi-member household, that's  
13 one thing. If we're talking about an account that is  
14 affiliated with, say, some group or company or et cetera  
15 that's accessed by lots and lots of people, we're talking  
16 about a different kind of inquiry.

17 MR. LEWIS: Understood.

18 THE COURT: That's why I hedge it that way.

19 MR. LEWIS: So, yes, Judge, we would certainly be  
20 open to that. We certainly don't want to have somebody have  
21 -- be wrongfully served or sued, so I would just ask that I  
22 guess the timeline be somewhat perhaps expedited versus what  
23 we might otherwise do in a "if we knew the person" situation.

24 THE COURT: Understood.

25 MR. LEWIS: Thank you, Judge.

1 MR. MATZ: Your Honor, so thank you very much for  
2 this idea. I mean I think it makes a lot of sense, and my  
3 understanding is this is a common way of doing it. You know,  
4 I think -- one question I have here respectfully is it is my  
5 understanding from Google's letter which was submitted to Your  
6 Honor as an attachment that their view is that the subpoena  
7 enforcement proceeding would occur not before this court,  
8 before the Northern District of California where subpoenas  
9 were customarily adjudicated with respect to Google.

10 THE COURT: I believe that Rule 45 provides that the  
11 protective order proceeding/motion to quash proceeding can  
12 take place in either the place where compliance is requested  
13 or where the subpoena is issued from. And so it could take  
14 place there. It also could take place here. But I think  
15 Google is correct that we could not -- if they chose to  
16 proceed in the Northern District of California, this Court  
17 would certainly defer to the reading of the law which allows  
18 them to proceed that way.

19 I think it may be a separate question if say an  
20 individual who submitted information wishes to assert his or  
21 her rights. In other words, a person who edited the  
22 spreadsheet asserts his or her rights. I think it depends on  
23 there may be a different question as to where they could  
24 appear. But I think that's certainly -- I don't think Google  
25 is incorrect that they could adjudicate it in the Northern

1 District of California. And, obviously, the judge who looks  
2 at that may have a different view as to how to proceed on this  
3 issue.

4 MR. MATZ: Of course. And I flag that only in the  
5 spirit of noting that there was a possibility that Google or  
6 potentially any of the Doe defendants -- you know, and I don't  
7 know what they'll do -- might take the view that an  
8 appropriate forum for adjudicating the subpoena may be located  
9 elsewhere including in California.

10 With respect to the procedure that Your Honor  
11 described, that procedure makes a great deal of sense to us.  
12 You know, I have sort of perhaps two questions about it. The  
13 first is that you noted that during the time in which the  
14 subpoena is pending but before there is any production in  
15 response to the subpoena that the Does could either sort of  
16 appear in this court and proceed as they wish or not. And I  
17 just wanted to make sure that I was correct in understanding  
18 that sort of if the Doe were not to appear during the pendency  
19 of that either because they don't know or because they want to  
20 see how the subpoena process occurs, they would then still  
21 retain the ability to assert any rights and defenses in this  
22 court?

23 THE COURT: Well, maybe we should think about it in  
24 the following way because the use of the Doe may be different  
25 in two places of things you said. So on the one hand,



1 individuals who Google believes satisfy the criteria laid  
2 forth in the subpoena, namely say an email address associated  
3 with someone who altered a cell or edited a cell or  
4 highlighted a cell in the spreadsheet, those persons to the  
5 extent Google has information about that would receive some  
6 notification from Google that they've -- Google has received a  
7 subpoena.

8           That person, call that person X, person X would have  
9 an opportunity to move to quash the subpoena or assert  
10 whatever other rights like limitations on the subpoena, et  
11 cetera. As you point out, that could potentially occur in  
12 this court or potentially in some other court. But if the  
13 person -- and if the person -- if X appeared in this court and  
14 made an application and said I'd like to move to quash and for  
15 the quash proceedings, I would like to proceed anonymously,  
16 that's often granted.

17           Then going forward, say either if the person X, if  
18 assume -- if person X is deemed by the plaintiff as someone  
19 they would like to sue and/or the subpoena quash motion is  
20 denied, the litigation would begin with respect to that  
21 person. I don't think what he or she does during the subpoena  
22 quash proceedings affects in any way their right to make  
23 substantive and procedural arguments in defense of the  
24 litigation. As to whether the person could proceed  
25 anonymously during the pendency of the substantive litigation

1 should they be actually named as a defendant, that's a  
2 slightly separate question and for which, you know, I don't  
3 take any view right now. But it would be addressed I think at  
4 the time that they're added as a putative defendant. I hope  
5 that makes sense.

6 MR. MATZ: That makes perfect sense.

7 THE COURT: Okay.

8 MR. MATZ: That was our understanding as well. I  
9 just wanted to sort of make sure, although, you know, I do not  
10 represent the Does. You know, obviously, I have some concern  
11 at least that their interests are protected.

12 The other question --

13 THE COURT: Yes.

14 MR. MATZ: -- that I had for Your Honor is that in  
15 the complaint, it's a little unclear to us who exactly it is  
16 they believe they are suing. And so the Google subpoena, for  
17 example, seeks to unmask the identity of persons who  
18 essentially made any modifications to the Elliott entry on the  
19 spreadsheet. In the complaint, however, the amended  
20 complaint, and here I would direct Your Honor to Paragraph 11,  
21 they say, "Plaintiff will know through initial discovery the  
22 names, email addresses, pseudonyms and/or internet handles  
23 used by the Jane Doe defendants to create the list, enter  
24 information into the list, circulate the list, and otherwise  
25 publish information in the list or publicize the list."

1           And counsel to plaintiffs have given interviews  
2 including to The New York Times suggesting that they believe  
3 there may potentially be quite a large number of defendants  
4 here, presumably quite a bit larger than any who may or may  
5 not have modified any part of Mr. Elliott's spreadsheet. And  
6 so, well, I suppose one of the concerns we have is  
7 understanding from the plaintiff perhaps, who exactly it is  
8 that he believes he is suing and how this subpoena fits into  
9 figuring out the structure of the litigation because that may  
10 in turn bear on some of the questions that arise in the course  
11 of adjudicating the subpoena.

12           THE COURT: Well, let me say the following, right.  
13 And certainly, the part -- I took the parties' stipulation,  
14 okay, as to agreeing to the scope of the subpoena, right. And  
15 the subpoena asks, as you point out, about particular kinds of  
16 individuals who had certain relationships to the spreadsheet.  
17 Now, what I took the complaint to say, the paragraph you just  
18 read to me -- and I certainly will hear from plaintiff's  
19 counsel on this -- that the information on the -- that's  
20 sought in the subpoena may not give the full universe of people  
21 who are affected or -- the answer to the Google subpoena may  
22 not identify every single person who would fit in the category  
23 of individuals that plaintiff wishes to sue.

24           At this point, what I understand the structure of  
25 the litigation is is that we are not doing any other discovery

1 under -- besides the Google subpoena. To the extent that the  
2 Google subpoena does not give the plaintiff access to all of  
3 the larger universe of individuals he may wish to sue, I don't  
4 view that as a discovery issue at this point. It may be an  
5 issue as to, you know, either future amendments, other things  
6 because certainly, you know, consistent with the laws, you  
7 know, and the plaintiff may have information from other public  
8 sources or investigations that are known to him or otherwise.

9 And so, I don't think -- my larger point being the  
10 plaintiff -- the subpoena is making a strategic decision about  
11 information that is being sought from Google. Whether that  
12 turns out to be sufficient to name all of the putative  
13 defendants I don't think is a problem to be addressed at this  
14 point in light of the fact that we're not doing any other  
15 discovery at this point.

16 MR. MATZ: Understood.

17 THE COURT: Does that answer your question?

18 MR. MATZ: It does.

19 THE COURT: Okay.

20 MR. MATZ: And you can understand that we were just  
21 sort of concerned that, you know, to the extent that he  
22 imagines there to be thousands of potential defendants,  
23 essentially anyone who has ever circulated the spreadsheet may  
24 be on the hook on some, you know, free-wheeling theory of  
25 aiding and abetting or conspiracy that would place substantial

1 concerns.

2 And just understanding that that's the structure of  
3 the litigation at this point and that the subpoena fits into  
4 it in that very particular way is very helpful, Your Honor.

5 THE COURT: I'll hear from the plaintiff if there's  
6 anything else, you know.

7 MR. LEWIS: I completely agree with Your Honor.  
8 This was limited in scope simply for the purpose under the  
9 Sony Music test of identifying the Jane Doe defendants that  
10 actually manipulated or input stuff into Mr. Elliott's cells.  
11 And if in discovery we find additional information that  
12 somebody may have circulated the spreadsheet with perhaps  
13 additional things in the email about Mr. Elliott, that's --  
14 we're not going to be precluded from attempting to identify  
15 those people as well.

16 THE COURT: Well, all I'll say about that is, you  
17 know, there are the customary rules about when you can amend,  
18 how many times you can amend --

19 MR. LEWIS: Of course.

20 THE COURT: -- showing good cause, Rule 15 comes  
21 into play and all of those things.

22 MR. LEWIS: Of course.

23 THE COURT: And certainly by limiting discovery at  
24 this point just to this subpoena and basically staying all  
25 other discovery, we'll have to cross other bridges. And I

1 certainly will hear arguments on both sides as to the  
2 appropriateness of those various avenues, but -- and so just  
3 to be clear about what you're not precluded. what other  
4 arguments may come to bear, the parties will certainly raise  
5 them and I'm not preventing the defendants from saying, you  
6 know what, by the way, a subsequent amendment is too late.

7 MR. LEWIS: Yes, sir.

8 THE COURT: And I certainly would allow you to say a  
9 subsequent amendment is based on diligence is appropriate.

10 MR. LEWIS: Thank you. And if I might just add one  
11 more thing, Judge. It would be our position that the subpoena  
12 could and should be returnable in this Court. I would just  
13 respectfully disagree with opposing counsel or with Google  
14 that they cannot be brought into court here considering the  
15 death of the business New York Life [Ph.].

16 THE COURT: Well, look, I think they're two separate  
17 questions, right. You know --

18 MR. LEWIS: And I understand we're not arguing that  
19 now, of course.

20 THE COURT: And, you know --

21 MR. MATZ: With respect, is Your Honor referring to  
22 Rule 45(c)(2) which refers to sort of a place of compliance  
23 for other discovery?

24 THE COURT: Well, I wasn't referring to anything at  
25 this point. But you mean in my --

1 MR. MATZ: When Your Honor referred to where the  
2 subpoena would be returnable or enforceable.

3 THE COURT: Well, I was actually saying now -- I  
4 mean there are a couple of things, right.

5 [Pause in proceedings.]

6 THE COURT: The subpoena, you know, it is a document  
7 subpoena which under 45(c)(2)(A), I believe, requires a  
8 production between -- within 100 miles of where the person  
9 resides or is employed or as regularly transacts business in  
10 person. Now, obviously, the parties may have different views  
11 as to where that is for Google. I don't intend to litigate  
12 that right now.

13 MR. LEWIS: Yes.

14 THE COURT: But what I was referring to before is  
15 if, for instance, compliance is directed in the Northern  
16 District of California, it's not the issue in court. Under  
17 (f), it could be transferred here.

18 [Pause in proceedings.]

19 THE COURT: But I do think it's a question of -- I  
20 mean if to answer your question, Google may take the position  
21 that under (c)(2)(A), within 100 miles of the Northern  
22 District of California regardless of the place of compliance  
23 being an email address as listed in the subpoena.

24 MR. MATZ: Yes, Your Honor. And, of course, I agree  
25 with you. We don't need to and really we can't litigate that

1 before the Court at this stage. I would just direct the  
2 Court, it may be helpful to document 22-1 in this case.

3 THE COURT: You have to give me a second.

4 [Pause in proceedings.]

5 THE COURT: Okay. I have 22-1 in front of me. Is  
6 there something in particular?

7 MR. MATZ: No, yeah. Your Honor, I realize of  
8 course that this isn't the appropriate moment at which to  
9 litigate where and how Google may or may not comply. I had  
10 just wanted to direct Your Honor to the final page of a letter  
11 from Google that had been sent in response to a letter from  
12 Mr. Lewis, my colleague, in which Google simply said -- they  
13 cite Rule 45(c)(2)(A) as well as the other provisions of Rule  
14 45 that Your Honor mentioned. And they say, "Google is  
15 headquartered in Mountain View, California and as a result,  
16 the place for compliance must be in the Northern District of  
17 California." They cite authority.

18 So I didn't mean to sort of send this off down that  
19 rabbit hole. I just wanted to flag that for the Court's  
20 attention.

21 THE COURT: Well, at least Google is citing the same  
22 portion of the rule that I am. Whether that's correct or not  
23 is for another day.

24 MR. MATZ: Right.

25 THE COURT: Okay. So one of the examples, you can



1 look at 18-CV-3156, okay. And I issued an order on July 2nd  
2 of last year in that case. And obviously feel free to modify  
3 that time frames, et cetera. How much time would the parties  
4 like to -- well, there are a couple of things. One is, you  
5 know, a Rule 45 subpoena is self-executing. I don't intend to  
6 so order a subpoena. That being said, obviously in this case,  
7 the parties, it is helpful to understand the scope of what  
8 someone is seeking.

9 But I will so order a -- you know, some proposed  
10 motion to adopt a procedure akin to the one in this case I've  
11 talked about. But if the subpoena is going to be the same in  
12 terms of what it is seeking, at this point, I don't view that  
13 it requires any court action, obviously, you know, until a  
14 motion to quash or a motion to compel is filed. Do the  
15 parties have any questions about how to proceed in that way?

16 MR. MATZ: No, Your Honor. We'll meet and confer  
17 with plaintiff's counsel and within the next two weeks if that  
18 would be acceptable to Your Honor propose if we're able to  
19 reach agreement on one a motion of this sort that Your Honor  
20 described.

21 THE COURT: That's fine.

22 MR. MATZ: Thank you.

23 THE COURT: And then I will otherwise -- otherwise,  
24 I believe there's -- well, let me see.

25 [Pause in proceedings.]

1           THE COURT: So I don't recall while I'm sitting here  
2 whether Judge DeArcy Hall formerly entered a stay of discovery  
3 on the docket. What I will say is following is when you make  
4 the motion in two weeks, it would be fine if the parties  
5 agreed to a partial lifting of the stay for the purposes of  
6 serving of this subpoena. If the parties can't agree about  
7 that, I will obviously resolve any other stay application if  
8 that can't be agreed to. But I take it that that's what needs  
9 to be done because my recollection is at least that there is  
10 at least a stay of discovery in place already.

11           MR. MATZ: Your Honor, there was not a notation on  
12 the docket. What Judge DeArcy Hall said, and I would direct  
13 the Court to Page 24 and 25 of the transcript of the premotion  
14 conference.

15           THE COURT: Uh-huh.

16           MR. MATZ: What she said is if there's no operative  
17 complaint, we're not going to proceed to discovery so let's  
18 figure out what you're going to do with the complaint, and  
19 they then did subsequently amend. And she said, "I will  
20 caution the defendants that the likelihood that I won't allow  
21 some limited discovery for the purpose of determining who the  
22 Jane Does are is not likely." And then she sort of mentions  
23 about the amended complaint. And then she says, "But, again,  
24 folks should expect that the plaintiff is going to be able to  
25 have some limited discovery." And then she says she's not

1 making determinations about the scope of it.

2 THE COURT: That was consistent with my recollection  
3 which is why --

4 MR. MATZ: Yes, Your Honor.

5 THE COURT: -- I didn't feel like I had to -- or at  
6 least act on No. 22 at the time. So, you know, I think it  
7 would be appropriate either to agree to a stay of discovery  
8 accepting the Google subpoena or some stipulation as to that  
9 effect if you can reach it in that motion in two weeks.  
10 Otherwise I think we should put the formal notation of a stay  
11 of discovery on if the parties can't agree.

12 MR. LEWIS: I would suggest our letter to the Court  
13 lays out our understanding. We agreed to not start initial  
14 disclosures until the return -- two weeks after the return  
15 date of the subpoena, so.

16 THE COURT: Yeah. So that's fine, too. You should  
17 exempt initial disclosures from that as well based on what I  
18 understand the parties are doing. Okay.

19 MR. MATZ: Yes, Your Honor. And I think our letter,  
20 I mean the letter uses words like "defer" and "delay." I  
21 think everyone agrees, and it was certainly my understanding  
22 of my conversation with Mr. Lewis that led to this letter that  
23 everyone agrees the Google subpoena will be served, there will  
24 be, I suspect, substantial litigation surrounding it. And  
25 then discovery will otherwise be stayed until we sort of see

1 what becomes of that.

2 THE COURT: Okay. The other thing is it is an  
3 initial conference, and at every initial conference, I discuss  
4 settlement. And there are lots of reasons to have a  
5 settlement conference in all kinds of cases. And, you know, I  
6 have lots of cases where settlement conferences occur at the  
7 beginning of a case.

8 My sense is that, but I'll hear from you, that it  
9 may be more appropriate to wait for further developments in  
10 the case for there to be any real settlement conferences. But  
11 I'll hear from you both.

12 MR. MATZ: Well, Your Honor, plaintiff -- I mean the  
13 plaintiff has not made a demand. You know, respectfully, I  
14 think it is our understanding that in light of the parties'  
15 positions and of the plaintiff's apparent goals in the  
16 litigation that a settlement or a mediated result as between  
17 us and the plaintiff is extremely unlikely at this stage.

18 THE COURT: I mean if the issue is the plaintiff  
19 making a demand, I can solve that issue really quickly, right.  
20 I can just tell the plaintiff to make a demand. And if I held  
21 a settlement conference, my rules require the parties to  
22 exchange demands and offers in advance. So if that's the  
23 hurdle, but --

24 MR. LEWIS: We're all -- it was my understanding  
25 that there was not going to be a settlement on behalf of Ms.

1 Donegan, so I had not made a demand. I'm certainly always  
2 open to start a dialogue, but I think it's -- I would think it  
3 would not be [inaudible].

4 THE COURT: How about we do this, okay. Why don't  
5 you serve a demand on the defendants, and if the parties both  
6 agree that in this time a settlement conference would be  
7 productive, you can indicate that in the letter you file in  
8 two weeks.

9 MR. MATZ: Yes, Your Honor. And I should say I hate  
10 to say never, but respectfully we do think it's most unlikely  
11 that that would occur. But we of course will be sure to  
12 discuss it and indicate our view in the letter.

13 THE COURT: I understand. And whether it's because  
14 of my charms or because I somehow managed to, you know, show  
15 up as an imposter in a black robe, sometimes I can get parties  
16 to settle in all kinds of ways that they thought not  
17 imaginable. Now there are obviously monetary settlements and  
18 then there are also nonmonetary settlements, so I just -- you  
19 know, keep that in mind. And litigation is time consuming,  
20 but also expensive.

21 All right. So other than that, I will simply wait  
22 for the parties to submit a motion and/or letter in two weeks.

23 MR. LEWIS: Might I suggest if we do settlements in  
24 the Northern District of California, Judge, with you?

25 THE COURT: Well, I'm not so empowered. Actually,

1 you know, but San Francisco isn't necessarily warmer at this  
2 time of year, but --

3 MR. MATZ: I've never had a winter colder than  
4 summer in San Francisco. Isn't that the same?

5 THE COURT: Yes.

6 MR. MATZ: Your Honor, we appreciate your careful  
7 attention to the case.

8 MR. LEWIS: Thank you, Judge.

9 THE COURT: Okay. It's --

10 MR. MATZ: We of course will get back in two weeks.

11 THE COURT: All right. There's nothing else I  
12 assume. And thank you all. Have a nice weekend.

13 MR. LEWIS: Thank you, sir.

14 MR. MATZ: Thank you, Your Honor.

15 (Proceedings concluded at 1:45 p.m.)

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1 I certify that the foregoing is a court transcript from  
2 an electronic sound recording of the proceedings in the above-  
3 entitled matter.

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6 Shari Riemer, CET-805

7 Dated: April 16, 2019  
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